



MIC3...NEWS, VIEWS AND TRANSITIONS

Newsletter for the Interstate Commission on Educational Opportunity for Military Children

MIC3 Holds Annual Meeting in Louisville

By W. John Matthews III, MIC3 Program Specialist

Photos by Richard Pryor, MIC3 Administrative Assistant

The Interstate Commission on Educational Opportunity for Military Children held their fourth annual commission meeting at the Galt House in Louisville, Kentucky, November 13-15, 2011. Led by Chairman Mark Needham, Commissioner from Kentucky, the meeting was attended by 31 of the 39 member states. Also in attendance were ex-officio members of the Commission and other interested parties having business or association with the Commission.



The meeting began on Sunday, November 13th, with the training for new state commissioners. The training was open not just to the new commissioners, but to all who wanted a better understanding of the Interstate Compact and the Commission. The training was well attended. Experienced commissioners even remarked on the improvement of the training from the previous year.

The business portion of the meeting took place on November 14 and 15th. Commission Chair Mark Needham of Kentucky presided.

The Commission addressed two proposed rules changes. They approved a change in the Rule 2.104(d), of the Rules of the Interstate Commission. This rule change altered the dues formula collected by the commission. The formula was changed to reflect the following changes:

- The dues format should be changed from "Assigned" to "Reside" effective **FY 2014**
- A minimum of **\$2,000.00** effective **FY 2014**
- A maximum of **\$60,000.00** effective **FY 2013**
- A reserve fund is to be maintained by the Commission
- States new to the Interstate Compact after January 1, 2012 will be assessed dues under the new format.

The justification for this rule change is that the Department of Defense data, used by the Interstate Commission in past years to compute the dues assessments, is based upon where the military member is assigned rather than where the military family resides. The Commission's rationale is that it is more equitable for each state to be assessed dues based upon the children who actually reside in that state and avail themselves of the educational programs provided by the public schools of that state rather than the state where one or both of their parents are assigned by the military. The minimum and maximum dues are an effort to bring more fairness to the dues assessment. States with minimal numbers of children, in some cases only a few hundred, will pay enough to offset the services (legal assistance, training, organization, etc.), materials (website, brochures) and administration provided by the MIC3 National Office and the activities that they participate in as part of the Commission. The establishment of a maximum amount was an effort to reduce the dues burden on larger states to the extent possible while still maintaining sufficient funding.

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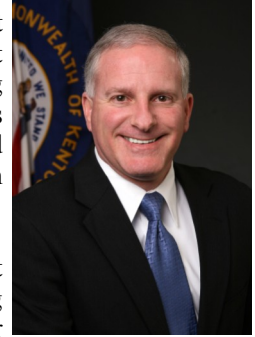




MESSAGE FROM THE COMMISSION CHAIR

Mark Needham, MIC3 Commissioner — Kentucky

It's the Holiday Season again. With all the decorating and shopping, you can easily find yourself without much time left in the day. Just remember that next to the summer season, this is probably the second busiest time for military families to transition. That means over the Christmas holiday many children are facing moves from one school to another. So while we enjoy the Holidays tremendously and cherish the precious little time we have to enjoy it, some of our service members and their families are not only shopping and decorating, they are moving from one state or country to another. All of us at MIC3 wish them all the best on their moves.



This is also a time for families to get together and military families are no different. Although far from that place they call home, many will return to be with mothers, fathers, sisters, brothers, and grandparents during the Holidays. We wish them safe travels and hope they have a relaxing break...they clearly deserve it. For those that can't travel to be with extended families, we wish you a safe and enjoyable Holiday as well.

Lastly, we still have thousands of service members deployed overseas and many in harms way. For those who serve our country so proudly we offer our profound gratitude. Being away from your family during this Holiday season is a sacrifice. Please know that you and your family are in our thoughts and prayers. If we can be of any assistance at MIC3, don't hesitate to ask. Again, Happy Holiday from all of us and we wish you a very Happy New Year.



MESSAGE FROM THE EXECUTIVE DIRECTOR

BG(Ret.) Norman E. Arflack, Executive Director

Thank you for taking the time to review the "holiday" edition of our MIC3 newsletter. Please allow me to take this opportunity to wish all of you a Merry Christmas and prosperous New Year!

We at the National Office have been very busy since our last publication. Most notably we held our annual meeting in Louisville, Kentucky November 13-15. Attendance was outstanding and hopefully all attendees had an educational and enjoyable visit to the Bluegrass State. The Commission completed some very important business during their meeting. They dealt with rule changes which will impact the future operation of the organization.



The current officers were re-elected to serve another term which will allow for a great deal of continuity as they manage the affairs of the Commission in the coming year. Additionally the FY13 budget was presented and approved. The document will be validated at the end of this fiscal year to insure that we in the National Office are being good stewards of the Commission's financial resources.

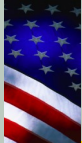
I am happy to report that Charleston, South Carolina was selected as the site for next year's full Commission meeting. It will be held November 15-17, 2012. This is a Thursday thru Saturday event, which will afford attendees the opportunity to stay in Charleston after the meeting to visit some of the historic sites there.

We look forward to a busy 2012, as we work with our DoD partners to grow our membership with recruitment of the remaining eleven states.

Our MIC3 mission is to assist military children in four key areas; enrollment, eligibility, placement and graduation, as they transition from one school system to another. The thirty-nine member states have or will soon appoint a commissioner and state council, which are critical to the resolution of any issues that may arise as a result of these transitions. The staff at the National Office provides support and assistance to the commissioners and state councils.

We are excited about the opportunity to minimize educational barriers to children of the members of our armed forces who have given so much in service to our great nation.

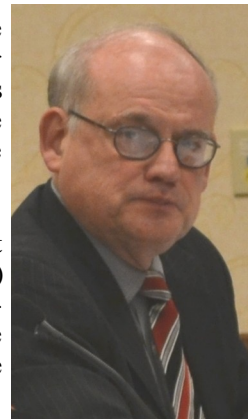
Please visit our website, www.mic3.net to learn more about our organization and what we are doing to facilitate this important cause.



THE LEGAL BRIEF - Enforcement Issues and MIC3

By Rick Masters, General Counsel

Based upon discussions at the MIC3 Annual Commission Meeting in November interest was expressed in more information regarding the legal authority and binding nature of the compact and compact rules on the member states and to emphasize the legal consequences of non-compliance, such as a failure to timely pay dues assessments and the legal consequences which the Commission is authorized to impose under the terms of the compact. As a follow up to that discussion the following is intended to promote greater awareness among the compact member states as to the legal and statutory basis for the Commission to exercise these prerogatives.



The Interstate Compact on Educational Opportunity for Military Children ("MIC3") is a formal agreement between member states that seeks to establish a uniform means of assisting transitioning school age ('K-12) children of military families transferred across state lines from one state public school to another. The Interstate Commission on Educational Opportunity for Military Children ("Commission") is charged, under the compact, with overseeing the day-to-day operations of the MIC3 and seeks to achieve its goals, including the responsibility for enforcing its' obligations when necessary.

The contractual nature of the compact controls over any unilateral action by a state; no state being allowed to adopt any laws "impairing the obligation of contracts," including a contract adopted by state legislatures pursuant to the Compact Clause. *See* U.S. Const. Art. I, § 10, Cl. 1 ("No state shall pass any bill of attainder, ex post facto law or law impairing the obligation of contracts ..."); *see also West Virginia ex rel. Dyer, supra* at 33; *Hinderlider v. La Plata River & Cherry Creek Ditch Co.*, 101 Colo. 73 (1937), *rev'd* 304 U.S. 92 (1938).

In interpreting and enforcing compacts courts are constrained to effectuate the terms of the agreement (as binding contracts) so long as those terms do not conflict with constitutional principles. Once a compact between states has been approved, it is binding on the states and its citizens. *See, New Jersey v. New York*, 523 U.S. 767 (1998). Thus, "Unless the compact . . . is somehow unconstitutional, no court may order relief inconsistent with its express terms, no matter what the equities of the circumstances might otherwise invite." *New York State Dairy Foods v. Northeast Dairy Compact Comm'n*, 26 F. Supp. 2d 249, 260 (D. Mass. 1998), *aff'd*, 198 F.3d 1 (1st Cir. 1999), *cert. denied*, 529 U.S. 1098 (2000).

As a contract among the states, no court can order relief inconsistent with the purpose of the compact. *See EnergySolutions, LLC v. State of Utah, et al*, 625 F.3d 1261 (10th Cir. 2010). However, where the compact does not articulate the terms of enforceability, courts have wide latitude to fashion remedies that are consistent with the purpose of the compact. The U.S. Supreme Court addressed this matter observing, "That there may be difficulties in enforcing judgments against States counsels caution, but does not undermine our authority to enter judgments against defendant States in cases over which the Court has undoubted jurisdiction, authority that is attested to by the fact that almost invariably the 'States against which judgments were rendered, conformably to their duty under the Constitution, voluntarily respected and gave effect to the same.'" *See, Texas v. New Mexico*, 482 U.S. 124,130, 131 (1987). "By ratifying the Constitution, the States gave this Court complete judicial power to adjudicate disputes among them . . . and this power includes the capacity to provide one State a remedy for the breach of another." *Id.* at 128.



Remedies for breach of an interstate compact can include granting injunctive relief or awarding damages. *See e.g., South Dakota v. North Carolina*, 192 U.S. 286, 320-21 (1904); *Texas v. New Mexico*, 482 U.S. at 130 ("The Court has recognized the propriety of money judgments against a State in an original action, and specifically in a case involving a compact. In proper original actions, the Eleventh Amendment is no barrier, for by its terms, it applies only to suits by citizens against a State."). The Eleventh Amendment provides no protection to states in suits brought by other states. *Kansas v. Colorado*, 533 U.S. 1, 7 (2001) (in proper original actions, the Eleventh Amendment is no barrier, for by its terms, it applies only to suits by citizens against a state).

In its most recent pronouncement on the subject the U.S. Supreme Court unequivocally held that obligations imposed by a duly authorized interstate commission are enforceable on the states. Moreover, such commissions may be empowered to determine when a state has breached its obligations and may, if so authorized by the compact, impose sanctions on a non-complying state. *See Alabama v. North Carolina*, 560 U.S. ___, 130 S.Ct. 2295, 176 L.Ed.2d 1070 (June 1, 2010).

In addition the Court made clear that an interstate compact commission composed of the member states may be a party to a compact lawsuit under the original jurisdiction of the U.S. Supreme Court if such claims are wholly derivative of the claims that could be asserted by the party states. *Id.* Moreover the Court held that when construing the provisions of a compact, in giving full effect to the intent of the parties, it may consult sources that might differ from those normally reviewed when an ordinary federal statute is at issue, including traditional canons of construction and the Restatement (Second) of Contracts. *Id.* at 2308-12.

(Continued on Page 4)



MIC3 ACROSS THE NATION: (TEXAS)

By Mike Peebles, Manager, Division of Regional Services, Texas Education Agency

Texas, like many other states, became a member of the Interstate Compact on Educational Opportunity for Military Children in 2009 as a result of legislation passed by the 81st Texas legislature. The bill establishing membership (Senate Bill 90) was passed on April 22, 2009 and was signed into law by Governor Perry on May 5, 2009. Mr. Robert Scott, State Commissioner of Education, serves as the Compact Commissioner and Ms. Brenda Weber serves as the Alternate Compact Commissioner.

Texas currently is home to fifteen (15) military bases, including seven (7) Air Force bases, four (4) Army bases and four (4) Naval bases. There are approximately 76,000 public school students covered by compact membership out of a total of approximately 4.8 million public school students in Texas. This represents approximately 1.6% of the total student population. The highest concentration of military students served are in the school districts near San Antonio (several bases), Killeen (Ft. Hood), El Paso (Ft. Bliss) and Corpus Christi (multiple naval bases).



The advisory council is composed primarily of educators, generally school superintendents and Regional Education Service Center Executive Directors, in schools or Service Centers geographically located near the highest concentration of students. For the 2009-2010 and 2010-2011 school years, three (3) Regional Education Service Centers (there are a total of 20 in the state) were each appropriated \$100,000 a year to employ staff to assist school districts in the implementation of the law. However, as a result of the budget shortfall the state had to address this year, no money was appropriated for the service centers for this project. Fortunately, most of the issues school districts had to deal with came up during the first two (2) years of implementation and districts are now able to address most situations with little technical assistance required. Most questions now center on kindergarten and 12th grade students. In Texas, a student must be five (5) years old on or before September 1st to be eligible for admission. There have been a few districts that call for clarification because a child that was in kindergarten at the sending state hadn't met the September 1st Texas requirement. These situations have been easily resolved. Districts receiving students that are in the 12th grade also will call for technical assistance. Although districts have flexibility in awarding course credit, they sometimes want the "blessing" from the Texas Education Agency before credit is awarded. There have been 12th grade transfer students who have successfully completed the exit level exams in the sending states. Parents and sometimes students don't understand that the student may have to pass additional exit level exams in Texas in order to be eligible to receive a Texas diploma. Many states have a Math and Reading/Language Arts exam, but Texas also has Science and Social Studies exit exams that must be passed. As a result, some students opt to get their diploma from the sending state, while others pursue a Texas diploma.

The Texas Education Agency, in doing what we can to assist compact students that have been transferred to Texas, has posted several links on the Agency website. These have proved to be very useful to both families/students that have already arrived, but also to those that have been notified of a pending transfer and are trying to research information prior to the actual transfer.

Texas looks forward in assisting families and students in making the transition as stress-free as possible.

LEGAL - CONT.

With respect to the financial obligations arising under MIC3, Article XIV of the Interstate Compact provides in relevant part that:

"The Interstate Commission may levy on and collect an annual assessment from each Compacting State to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year."

Article XIII, Section B. of the Interstate Compact provides that in the event of a default in the performance of any of its obligations or responsibilities by a 'defaulting state' the Commission may impose a variety of penalties which include, but are not limited to, remedial training, suspension, or termination from the Compact. In addition, Section D 1. provides that"

"[T]he Commission may by majority vote of the members, initiate legal action against a defaulting state in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, its promulgated rules and bylaws, against a member state in default" and in the event such legal action is necessary the Compact provides that "the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees."

While the Commission has only rarely found it necessary to take formal legal action for compact non-compliance such as a failure to pay dues assessments, it is important that compact commissioners from all member states have a complete understanding of these issues in the hopes that any such action is unnecessary.



RECOGNITION AND ENDORSEMENT OF THE INTERSTATE COMPACT

By W. John Matthews III, MIC3 Program Specialist

Over the last two months, the Interstate Compact and the Commission have received recognition on the websites of other organizations. This important outreach helps to spread the word about the existence of the Interstate Compact.

America's Promise Alliance:

Founded in 1997 with General Colin Powell as Chairman and chaired today by Alma Powell, America's Promise Alliance is a cross-sector partnership of 400+ corporations, nonprofits, faith-based organizations and advocacy groups that are passionate about improving lives and changing outcomes for children. We have made a top priority of ensuring that all young people graduate from high school ready for college, work and life. Our work involves raising awareness, encouraging action and engaging in advocacy to provide children the key supports we call the Five Promises: Caring adults, Safe Places, A Healthy Start, An Effective Education and Opportunities to Help Others.

America's Promise recently established a portion of their website dedicated to initiatives assisting military families. MIC3 was contacted to contribute to this section. <http://www.americaspromise.org/Our-Work/Military-Families/Issues/Interstate-Compact.aspx>

Iraq and Afghanistan Veterans of America:

IAVA is a 21st Century veterans' organization dedicated to standing with the 2.3 million veterans of Iraq and Afghanistan from their first day home through the rest of their lives. In just the last year, IAVA has connected hundreds of veterans with employers, helped over 10,000 go to college on the new GI Bill, and provided mental health support to over 50,000. IAVA was founded in 2004 by current Executive Director Paul Rieckhoff and his fellow Iraq and Afghanistan veterans. After returning home from their tours, these veterans came together after quickly becoming concerned with the way the war in Iraq was being portrayed in the media and the overall plight of newly returned veterans.

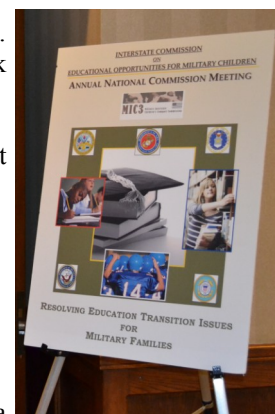
In a recent report issued by the IAVA entitled "*Are we forgetting military families?*" The report makes recommendations to strengthen our nation's military families. Under the Education portion, the report recommends, "all states join the Interstate Compact making graduation requirements more uniform so military children are able to transfer more easily during frequent moves without falling behind." To see a full copy of their report, please visit <http://iava.org/blog/iraq-war-ends-new-iava-report-profiles-challenges-military-families>.

MIC3 ANNUAL MEETING (Cont.)

The second of the proposed rule changes dealt with Rule 3.102(d), of the Rules of the Interstate Commission. This proposed change was tabled by the Commission for further discussion and research. It was referred back to the Rules Committee.

During Monday's afternoon session, Commissioners and ex-officio members were divided into four breakout groups to discuss questions submitted prior to the meeting. These included:

- Reciprocity on Exit Exams for Graduation
- Dealing with Graduation with Diplomas from the sending states
- How can we involve the National Guard more?
- Cross tell of best practice from States
- Rundown of Status of Compact from States
- School choice for military families. How do districts that allow parents to send their children to a school of their choice within a school district or to a school in another district make that accommodation and solve issues of school funding, timing and space?



Chair Needham added the Kindergarten rule which had been tabled by the Commission, to the discussion list.

Business on Tuesday was composed of the election of Commission officers, committee assignments and committee meetings. The current commission officers, Chair Mark Needham (KY), Vice Chair Kathleen Berg (HI) and Treasurer Pam Deering (OK) were all nominated and elected to serve an additional year term. Committee Chairs for 2011-12 are Pam Deering (OK) - Finance), Mary Gable (MD) – Rules, Mike Reed (AL) – Compliance, and Rosemarie Kraeger (RI) – PR and Training.

Commission business was concluded with the selection of Charleston, SC as the site of the 2012 MIC3 Annual Meeting. South Carolina Commissioner Designee, Mark Bounds was pleased and excited at the opportunity to host the meeting.



WISCONSIN STATE COUNCIL...UP AND RUNNING - A MODEL FOR OTHERS!

By Shelly Joan Weiss, MIC3 Commissioner - Wisconsin

Wisconsin joined the ranks of the member states for the Interstate Compact in May 2010. Once the Wisconsin legislature passed the Interstate Compact into law, State Superintendent Tony Evers appointed Shelley Joan Weiss as Commissioner. Shelley had a long history in both education and the military. Her experience as a retired Lieutenant Colonel from the Air Force Reserve and Air National Guard, and principal of the Wisconsin Middle School of Excellence at Waunakee made her the perfect choice. Additionally, Shelley had spent her youth traveling from school to school with her family as her father was in the Army and Army National Guard.

Shelley met with Superintendent Tony Evers and staff members from the Wisconsin Department of Public Instruction (DPI) to gather needed information and collaborate on establishing the Wisconsin State Council. Representative Mark Radcliffe, 92nd Assembly District, Mr. John Hendricks, Superintendent of the Sparta School District, Ms. Becky Walley, School Liaison Officer for Fort McCoy Army Garrison, Lieutenant Colonel John Blaha, Army National Guard representative, Ms. Janet Jenkins, DPI Legal Counsel, and Ms. Judith Kuse, DPI Liaison were appointed to the Council, joining Superintendent Tony Evers and Commissioner Shelley Joan Weiss. The council decided to meet twice annually (January and July) during the first years and if needed, would increase to meeting quarterly.

Shelley contacted the staff members at MIC3 to learn more about the types of issues that may arise that the council should be prepared to address. She worked with Ms. Laurie Salzman at the DPI to create a website that links with other essential sites.

<http://www.dpi.wi.gov/sspw/militarychild.html> State Superintendent Evers provided information on the Council, Commissioner, website, and services offered through an online newsletter that was disseminated to all district and building administrators throughout the state. The information was also posted on the DPI website. Superintendent Evers' support and publicity has been and continues to be instrumental to the success of the Council.

Shelley also met with Lieutenant Colonel Tammy Gross, representative for Brigadier General Donald Dunbar, the Adjutant General of the Wisconsin National Guard, to discuss the various military family programs that she could connect with. The various family support groups, under the coordination of Lt Col Gross have been extremely valuable in both providing and sharing information. Wisconsin is fortunate to have strong support of military families and within a short time, Ms. Candyce Hanus, USO coordinator in Milwaukee, connected with Commissioner Weiss to share a wonderful opportunity to promote information about the Compact. Through the combined efforts of the USO, the Milwaukee Brewers Baseball team, and MIC3 staff thousands of informative brochures and magnets were distributed at a baseball game where military families were honored. Commissioner Weiss ordered a large number of printed brochures through the MIC3 national office, added her DPI business card to them, and regularly disseminates the information at conferences, meetings, and school districts.

Shelley became an active, involved member of the Education, Training, and Public Relations Committee at the national level. She immersed herself in learning about the Compact, the work of Commissioners, and the national organization to ensure she was well prepared to help others and to support the newest commissioners and state councils. She advises new State Commissioners to use the resources available through the MIC3 website and to connect with experienced members of the national group. She also invites new Commissioners to explore the sites of other states and use as much of their information as possible.

Commissioner Weiss commented that the work with the Wisconsin State Council and the National Council has been exciting and informative. She has learned more about the questions and challenges facing the children of military families. She has also confirmed her view that educators throughout the state of Wisconsin are eager and enthusiastic to provide all students with strong support and opportunities to succeed. She is appreciative of the commitment of the members of the Council and State Superintendent Tony Evers.

References:

<http://legis.wisconsin.gov/lc/publications/act/2009/act329-sb681.pdf>

<http://www.jsonline.com/news/wisconsin/106358223.html>

UPCOMING EVENTS

January 11, 2012	PR and Training Cmte Conference Call	2:30PM EST
January 23, 2012	AFAP Steering Committee	Fort Knox, KY
April 1-4, 2012	Army Aviation Assoc of America Conference	Gaylord Opryland, Nashville, TN
November 15-17, 2012	5th MIC3 Annual Meeting	Charleston , SC



MIC3 Partners with National Guard for Military Appreciation Day

By W. John Matthews III, MIC3 Program Specialist / Photos by Richard Pryor, MIC3 Administrative Assistant

For the fifth time in 2011, the Commission partnered to promote the Interstate Compact on Educational Opportunity for Military Children. On November 12, 2011, just prior to the 2011 MIC3 Annual Meeting, the staff of the national office worked with the Kentucky National Guard and Air National Guard to promote the Interstate Compact during Military Appreciation Day for the University of Louisville.

This type of outreach gives needed exposure to the Interstate Compact. Many people are still learning of the existence of the Interstate Compact.



COMMISSIONERS: Getting to Know

CONNECTICUT - Laura Anastasio



Laura Anastasio is a staff attorney with the Connecticut State Department of Education (CSDE) and serves as the Commissioner's designee for the Interstate Compact on Educational Opportunities for Military Children. Her responsibilities at the CSDE include providing assistance to the general public and school districts regarding the application of the state's education laws,

including but not limited to school health and nutrition, tenure, truancy, home instruction, attendance, graduation requirements, adult education, priority schools, duties of boards of education, racial imbalance, bullying, school construction, school accountability, private schools, and student rights. She also is responsible for reviewing all contracts for the CSDE and providing guidance to staff concerning compliance with FERPA and with the Freedom of Information Act, and she monitors negotiations under the Connecticut Teacher Negotiations Act.

She has worked for the CSDE for 8 years. Prior to her employment with the State of Connecticut, she was an associate at Shipman & Goodwin LLP, specializing in school law. Laura received her B.A. from Emory University and her J.D. from the University of Connecticut School of Law.



**RESOLVING EDUCATION
TRANSITION ISSUES
FOR MILITARY FAMILIES**

FLORIDA - Capt. (Ret.) Robert Buehn



Robert Buehn, 60, of Fleming Island, was appointed by Governor Rick Scott in October to serve as he Commissioner from Florida. Capt Buehn is currently an adjunct professor with the U. S. Naval War College and most recently served as the Chief of Military Affairs for the City of Jacksonville.

As a career military officer, Buehn served as commanding officer of the U.S. Naval Base at Guantanamo Bay, Cuba; commanding officer of the Fleet Area Control and Surveillance Facility at Jacksonville Naval Air Station; chief of staff of the Cruiser-Destroyer Group 12 at Mayport Naval Station; and commanding officer, VS-32, at NAS Cecil Field. He served tours at all Jacksonville Navy bases totaling 15 years (NAS Jacksonville, NS Mayport and Cecil Field).

"We feel so fortunate to have Captain Buehn and believe he will do a great job in this role," said Lane Wright, Scott's press secretary. "It's difficult to describe how valuable a job this is. Captain Buehn, with children of his own, has experience with this. He understands that military reassignments can often be a boon for career personnel, they often wreak havoc on the children of military families," Wright continued. "This is where his experience is so valuable."

Buehn earned a bachelor's degree in journalism from the University of Florida and a master's degree in National Security and Strategic Studies from the U.S. Naval War College. He actually began his career as a journalist at The Stuart News, on Florida's Treasure Coast in Stuart.